

Remarks and Arguments

Applicants have carefully considered the Office Action dated August 16, 2006 and the references cited therein. Applicants respectfully request reexamination and reconsideration of the application.

Claims 1-13, 27-31 and 43-45 are currently pending.

Claims 29-31 are withdrawn.

Claims 1-13, 27, 28 and 43-45 are rejected.

In response to the Examiner's rejection of claims 1-13, 27, 28 and 43-45 under 35 USC Section 102(e), as being anticipated by U.S. Patent 7,023,206, Viehland, et al., hereafter Viehland, Applicants respectfully submit that the inventive activities of the Applicants preceded the effective date of the Viehland reference. This Application claims priority to U.S. Provisional Patent Application Serial No. 60/431,487, filed December 9, 2002. Accordingly, the effective priority date of the Viehland reference is not greater than one year from the effective priority date of the instant application. A Declaration of Prior Invention Under 37 CFR §1.131, by each of Jiankang Huang and Robert C. O'Handley, the named inventors of the instant application, is submitted herewith to swear behind the effective date of the Viehland reference. Exhibits A-C are submitted to support the Declarant's statements. The Declarant's statements set forth in the attached Declarations establish conception of the invention prior to the effective date of the Viehland reference coupled with due diligence from prior to the effective date until December 9, 2002, the priority date of the subject application, or, alternatively, in light of the extensive detail within Exhibits A-B, actual reduction to practice of the inventive concepts prior to effective date of the Viehland reference. Accordingly, in view of the Declarations of Prior Invention and Exhibits A-C thereto, Applicants respectfully request that the rejection under §102(e) be withdrawn.

In light of the foregoing, Applicants respectfully traverse the rejections of the dependant claims under §103(a) as unpatentable over Viehland light of various other references on the grounds that the Examiner has failed to set forth a *prima facie* case of obviousness since the cited references, when combined, fail to teach or suggest *all* of the claim limitations.

Regarding the rejection of claims 2-3 and 44 under 35 USC 112, second paragraph, Applicants have amended those claims to replace all occurrences of trademark/tradename Teferol-D with "TbDyFe alloys". These amendments have not been made to distinguish over any reference of record and no narrowing of any corresponding equivalents to which the amended limitations or claims is/are entitled is intended by these amendments.

Claims 1, 27 and 43 stand rejected under the judicially created doctrine of non-statutory double patenting over claim 3 of US Patent 6984902. Applicants respectfully request that the Examiner hold such rejections in abeyance until an indication of allowable subject matter in the subject application before any terminal disclaimer is submitted.

Applicants believe the claims are in allowable condition. A notice of allowance for this application is solicited earnestly. If the Examiner has any further questions regarding this amendment, he/she is invited to call Applicant's attorney at the number listed below. The Examiner is hereby authorized to charge any fees or credit any balances under 37 CFR §1.17, and 1.16 to Deposit Account No. 02-3038.

Respectfully submitted,

/Bruce D. Jobse/ Date: 2006-12-18
Bruce D. Jobse, Esq. Reg. No. 33,518
RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP
Customer Number 021127
Tel: (617) 367-4600 Fax: (617) 367-4656